

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

AMERICAN VEHICULAR SCIENCES, LLC	§ § §	
vs.	§	NO. 6:12cv404 (LEAD)
TOYOTA MOTOR CORPORATION, et al.,	§ §	
vs.	§	NO. 6:12cv774 (LEAD)
HYUNDAI MOTOR COMPANY, et al.,	§	NO. 6:13cv270
vs.	§	NO. 6:13cv307 (LEAD)
MERCEDES-BENZ U.S. INTERNATIONAL, INC., et al.,	§ §	
vs.	§	NO. 6:13cv147 (LEAD)
KIA MOTORS CORPORATION, et al.,	§	
vs.	§	NO. 6:13cv226 (LEAD)
AMERICAN HONDA MOTOR CO., INC., et al.,	§ §	
vs.	§	NO. 6:13cv229 (LEAD)
SUBARU OF AMERICA, INC.	§	

ORDER

Before the Court is Toyota’s¹ Renewed Motion for a Partial Stay Pending *Inter Partes* Review (Doc. No. 197) (“Motion”). Plaintiff American Vehicular Sciences LLC’s (“AVS”) has filed a Response (Doc. No. 218) (“Response”). The Related AVS Defendants² have also filed a Notice Regarding Estoppel in their respective cases. Upon review of the parties’ arguments, Toyota’s

¹ The Toyota Defendants include Toyota Motor Corporation; Toyota Motor Sales, U.S.A., Inc.; Toyota Motor Engineering & Manufacturing North America, Inc.; Toyota Motor Manufacturing, Indiana, Inc.; and Toyota Motor Manufacturing, Kentucky, Inc; and Gulf States Toyota, Inc. Unless otherwise indicated, all citations herein are to Case No. 6:12cv404.

² The Related AVS Defendants include automakers Hyundai, Kia, Honda, Subaru, and Mercedes. Hyundai Motor Company, et al. Case Nos. 6:12cv774 (Lead), 6:12cv775, 6:12cv776, and 6:13cv270; Kia Motors Corporation, et al., Case Nos. 6:13cv147 (Lead), 6:13cv148, 6:13cv150; American Honda Motor Co., et al., Case Nos. 6:13cv226 (Lead), 6:13cv227, 6:13cv228; Subaru of America, Inc. Case Nos. 6:13cv229 (Lead), 6:13cv230; and Mercedes-Benz U.S. International, Inc., et al., Case Nos. 6:13cv307 (Lead), 6:13cv308, 6:13cv309, 6:13cv310.

Motion is **GRANTED IN PART**. Also before the Court is the parties' Joint Submission to Construe More Than 10 Terms (Doc. No. 219) which is **DENIED AS MOOT** in light of this Order.

On June 25, 2012, AVS simultaneously filed seven patent infringement cases³ against Toyota asserting infringement of 24 patents.⁴ COMPL. The seven patent cases were consolidated into the '404 case for all pretrial issues on November 1, 2012. Doc. No. 38. AVS is also asserting the same and additional patents against the Related AVS Defendants for a total of seven defendants and 24 patents. On June 21, 2013, Aisin, a Toyota supplier and non-party, filed petitions for *inter partes* review ("IPR") in the U.S. Patent and Trademark Office ("PTO") for patents in the '409 case which has since been dismissed. On July 8 and July 12, 2013, Toyota Motor Corporation ("TMC") filed IPR petitions for eleven patents in the '405, '406, and '410 cases seeking collective post-grant review of 122 claims. The Toyota Defendants filed a motion to stay pending IPR on August 13, 2013 requesting a stay of the five remaining cases. Doc. No. 150. Because the PTO had not issued a decision on whether it would grant review, the Court denied Toyota's motion without prejudice (Doc. No. 194). The Court further ordered all nonmoving related AVS Defendants to file a notice regarding estoppel indicating whether that party would "(1) stipulate to the same estoppel effect that will apply against Toyota resulting from the IPRs or some variation thereof, and (2) stipulate to be bound as soon as the PTO issues its decisions on the IPRs rather than waiting until the appeal process is completed." *Id.* at 2-3. On January 13 and 14, 2014, the PTO granted review as to 103 of the 107 asserted claims in the IPR cases. MOT. at 4. Oral argument is scheduled for August 14-19, 2014 with written decisions

³ Case nos. 6:12cv404 ("the '404 case"), 6:12cv405 ("the '405 case"), 6:12cv406 ("the '406 case"), 6:12cv407 ("the '407 case"), 6:12cv408 ("the '408 case"), 6:12cv409 ("the '409 case") and 6:12cv410 ("the '410 case"). The '407 and '409 cases have since settled (Doc. Nos. 108 & 167).

⁴ On the same day, AVS filed five simultaneous suits against BMW Defendants, alleging infringement of some of the same patents. They have since settled. *American Vehicular Sciences LLC v. BMW Group, a/k/a BMW AG*, et al., No. 6:12cv411 (E.D. Tex.) (Doc No. 84).

by the PTO due January 13-14, 2015.⁵ *Id.* at 5. Pretrial Conference is scheduled for April 30, 2015, with jury selection and a trial date to be assigned by the Court within four weeks after the pretrial conference. Doc. No. 193. Toyota filed the instant motion to stay on January 23, 2014.

While the Court recognizes AVS' interest in "the just, speedy, and inexpensive determination of every action," (FED.R.CIV.P. 1), the Court finds a partial stay appropriate in this case. The Court hereby **GRANTS** a stay as to the patents in the Toyota cases where the PTO has granted review. *See* MOT. at 5, Table 2: Cases Affected by IPR Proceedings. The stay is only granted as to Toyota and the patents in which the PTO has granted review ("IPR patents"). As to the nonmoving Related AVS Defendants, the Court will conduct a claim construction hearing involving the IPR Patents on February 19, 2015.

The claim construction hearings currently scheduled for March 6, May 8 and June 5, 2014 will proceed as scheduled as to the non IPR Patents. It is furthermore ordered that the parties are hereby ordered to submit amended Docket Control Orders for IPR and non IPR Patents by February 26, 2014.

So ORDERED and SIGNED this 19th day of February, 2014.


JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE

⁵ The Court recognizes that the PTO can extend this deadline by six months with good cause. 35 U.S.C. §316(a)(11).